



Paper No. 12

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**OFFICE OF PETITIONS**

In re Application of :  
Saare et al. : LETTER GRANTING  
Application No. 09/994,450 : FILING DATE  
Filed: 16 November, 2001 :  
Attorney Docket No. SUNP 6491 :

This is a response to the paper styled as a petition to correct a filing date, filed on 12 March, 2004, which is being treated as a submission under 37 CFR 1.6(e) requesting that the above-identified application be accorded a filing date of 16 November, 2001, rather than the presently accorded filing date of 28 November, 2001.

The USPTO is aware that the USPS suspended Express Mail service to Washington, D.C. ZIP Codes 202XX through 205XX (e.g. 20231) from 16 November, 2001, through 29 November, 2001. On 9 October, 2001, the USPTO published a notice in the Official Gazette providing guidance in the situation in which a post office refuses to accept the deposit of mail for delivery by Express Mail service.<sup>1</sup> The guidance set forth in that notice also applies if a post office refuses to accept the deposit of correspondence for delivery by Express Mail due to the suspension of the USPS's Express Mail service to Washington, D.C., ZIP Code 20231, as well as the situation in which correspondence is returned as undeliverable due to this suspension.

The guidance set forth in the above-mentioned Official Gazette notice is reproduced below:

Where the USPS refuses to accept the deposit of mail for delivery by express mail.

In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit

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<sup>1</sup>See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (October 9, 2001).

of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE.

The submission filed on 12 March, 2004, contains an affidavit by counsel's employee, Anthony Chou, stating that he attempted to deposit the application with the United States Postal Service (USPS) via Express Mail on 16 November, 2001, but the USPS refused to accept the correspondence for deposit as Express Mail. Chou then deposited the application in Priority mail. Based on the submissions filed on 12 March, 2004, it is concluded that the present application would have been filed on 16 November, 2001, if it were not for the designated interruption in the USPS.

Accordingly, the application will be accorded a filing date of 16 November, 2001.

No petition fee is required.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 16 November, 2001.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.



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